

REMARKS

This responds to the Office Action mailed on September 23, 2005. Claims 4-6, 30-32, 37, 43-48 are amended and claims 49-50 are added; as a result, claims 4-8, 30-33 and 37-50 are now pending in this application. Applicant does not admit that the cited references are prior art and reserves the right to swear behind the cited references at a later date.

§102 Rejection of the Claims

Claims 4-6, 8, 30-32, and 37-48 were rejected under 35 USC § 102(e) as being anticipated by Ogg et al. (U.S. 6,868,406). Applicant respectfully traverses the rejection.

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991).

Claims 4-5, 8, 30-31, 37-39, 41-45 and 47-48

Claims 4 and 30 are amended. Among the differences, claim 4, as amended, recites “selectively auditing a number of transactions between a wireless computing device and a server based on a type for the number of transactions, wherein selectively auditing of the number of transactions includes securely storing at least one attribute of selected audited transactions within the wireless computing device.” Among the differences, claim 30, as amended, recites “selectively auditing a number of transactions between the wireless device and a separate device based on a type for the number of transactions, wherein selectively auditing of the number of transactions includes securely storing at least one attribute of selected audited transactions within the ~~computing~~ wireless device.

Accordingly, a transaction occurs between a wireless computing device and a server. In contrast to Ogg, the claimed limitations include having the attribute securely stored within a wireless device and not within the server. In particular, Ogg discloses a system wherein “modules encipher the information stored in the central database for all of the on-line VBI system customers . . .” Ogg at column 2, lines 40-42.

Therefore, because the cited reference does not show all of the claim limitations, Applicant respectfully submits that the rejection of claims 4 and 30 under 35 U.S.C. §102 has been overcome. Claims 5, 8, 31, 37-39, 41-45 and 47-48 depend from claims 1 and 30 and distinguish the reference for at least the same reason.

Claims 6 and 32

In addition to the remarks set forth above regarding claims 4 and 30 (from which claims 6 and 32 depend, respectively), Applicant respectfully submits the following remarks. With regard to claim 6 and 32, among the differences, claims 6 and 32 recite “generating a signature of the integrity metric with a signature key that is generated and stored within the computing device.” The Office Action indicated that this limitation is disclosed by Ogg at column 43, lines 1-27, column 11, 59-67 and column 12, lines 1-3. Ogg at column 43, lines 1-27 relates to logging of a hash of the most recently created audit entry. Ogg at column 11, line 59 – column 12, line 3 relates to signing the audit logs. However, neither citation in Ogg includes the generating of a signature of an integrity metric (such as a hash) that is generated from the audit log. Because all the elements of claims 40 and 46 are not taught by the cited reference, Applicant respectfully submits that the rejection of claims 6 and 32 under 35 U.S.C. §102 has been overcome.

Claims 40 and 46

In addition to the remarks set forth above regarding claims 4 and 30 (from which claims 40 and 46 depend, respectively), Applicant respectfully submits the following remarks. With regard to claim 40 and 46, among the differences, claims 40 and 46 recite “storing the hash and the digital signature in the audit log, after the audit session is closed.” The Office Action indicated that this limitation is disclosed by Ogg at column 11, line 59 – column 12, line 3. This citation in Ogg relates to signing and storage of audit logs. However, this citation does not disclose that the hash and the digital signature are stored in the audit log. Because all the elements of claims 40 and 46 are not taught by the cited reference, Applicant respectfully submits that the rejection of claims 6 and 32 under 35 U.S.C. §102 has been overcome.

§103 Rejection of the Claims

Claims 7 and 33 were rejected under 35 USC § 103(a) as being unpatentable over Ogg et al. (U.S. 6,868,406) as applied to claims 6 and 32 above, and further in view of Scullion et al. (U.S. 4,734,865). In addition to the remarks set forth above regarding claims 4 and 30 (from which claims 7 and 33 depend, respectively), Applicant respectfully submits the following remarks.

In order for the Examiner to establish a *prima facie* case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *M.P.E.P.* § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

The Office Action posits several reasons for combining the cited references (Ogg and Scullion). However, the Office Action does not point to a single passage in the references that teaches or suggests the cited combinations. Furthermore, the Office Action has not identified any references supporting its assertions about knowledge of ordinary skill in the art. Therefore, Applicant submits that the Office Action has improperly combined the cited references.

Applicant respectfully submits that the Office Action did not make out a *prima facie* case of obviousness because even if combined, the cited references fail to teach or suggest all of the elements of claims 7 and 33.

Among the differences, claims 7 and 33 recite "storing a value of the audit counter, the integrity metric and the signature in the audit log." The Office Action indicated that this limitation is disclosed in Ogg at column 43, lines 1-27. This citation relates to logging a hash into an audit report (not into the audit logs discussed through Ogg). Ogg makes a clear distinction between an audit report and an audit log. Moreover, this citation does not disclose or suggest that the signature or the audit counter is logged at all. Accordingly, this citation does not disclose or suggest storing a value of the audit counter or the signature in the audit log.

Therefore, neither reference, alone or in combination, disclose or suggest all of the claim limitations. Accordingly, Applicants respectfully submit that the rejection of claims 7 and 33 under 35 U.S.C. §103 has been overcome.

New Claims

Claims 49-50 have been added. No new matter is added. Claim 49 is at least supported by Figure 2. Claim 50 is at least supported by Figure 4B. Applicant respectfully submits that the cited references do not disclose or suggest the limitations of claims 49 and 50. Applicant respectfully submits that claims 49-50 are patentable over the cited art.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney ((612) 371-2103) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,


SELIM AISSI

By their Representatives,
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
Attorneys for Intel Corporation
P.O. Box 2938
Minneapolis, Minnesota 55402
(612) 349-9592

Date

1-23-06

By


Gregg A. Peacock
Reg. No. 45,001

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Name

Amy Moriarty

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